

Date of Hearing: June 19, 2012

ASSEMBLY COMMITTEE ON ELECTIONS AND REDISTRICTING

Paul Fong, Chair

SB 1275 (Lieu) – As Amended: April 24, 2012

SENATE VOTE: 37-0

SUBJECT: Vacancies in office: special elections.

SUMMARY: Modifies the timeline for conducting a special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly. Specifically, this bill:

- 1) Requires a special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly to be conducted on a Tuesday at least 126 days, but not more than 140 days, following the issuance of an election proclamation by the Governor.
- 2) Permits nomination papers to be circulated beginning 73 days before the special primary election instead of 63 days before the election. Requires those nomination papers to be left with the county elections official for examination and filed with the Secretary of State (SOS) not less than 53 days before the special primary election, instead of being left with the county elections official 43 days before the special primary election and filed with the SOS 39 days before the special primary election.
- 3) Requires the special primary election to be conducted in the district in which the vacancy occurred on either the ninth or 10<sup>th</sup> Tuesday before the special general election, as specified, instead of either the eighth or ninth Tuesday before the special general election.
- 4) Requires an application for a vote by mail ballot in a special primary election to be made in the same manner as for a regularly scheduled election.

EXISTING LAW:

- 1) Requires the Governor to issue a proclamation calling a special election within 14 calendar days of the occurrence of a vacancy in a congressional or legislative office, unless that vacancy occurs after the close of the nomination period in the final year of the term of office.
- 2) Requires a special general election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly, to be conducted on a Tuesday that is at least 112 days, but not more than 126 days, following the issuance of a proclamation by the Governor calling that special election. Allows a special general election to be conducted within 180 days following the issuance of a proclamation so that the election or the primary election may be consolidated with the next regularly scheduled statewide election or local election occurring wholly or partially within the same territory in which the vacancy exists, provided that the voters eligible to vote in the local election comprise at least 50 percent of all the voters eligible to vote on the vacancy.

- 3) Requires a special primary election to be held in the district in which the vacancy occurred on the eighth Tuesday prior to the special general election. Provides that if the eighth Tuesday prior to the special general election is the day of, or the day after a state holiday, the special primary election shall be held on the ninth Tuesday prior to the special general election.
- 4) Requires candidates to be nominated in a specified manner for special primary elections. Prohibits nomination papers from being circulated more than 63 days before the special primary election and requires the nomination papers to be left with the county elections official for examination not less than 43 days before the special primary election. Requires nomination papers to be filed with the SOS not less than 39 days before the primary election.
- 5) Requires an application for a vote by mail voter's ballot to be made in writing to the elections official having jurisdiction over the election between the 29<sup>th</sup> and the seventh day prior to the election.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) Purpose of the Bill: According to the author:

In 2009, President Obama signed the Military and Overseas Voter Empowerment (MOVE) Act, which requires that "Absentee ballots must be sent at least 45 days before the election to any UOCAVA voter who has submitted a request by that date." In addition, under current California law, after the Governor announces a special election in the wake of a vacancy in a legislative or congressional seat, a special general election must be held within 112 to 126 days. These two requirements in tandem create a time shortage that makes it difficult for elections officials to comply with both laws.

The bill attempts to ease this burden by changing the window when a special general election can be held to 126 to 140 days after the Governor's announcement.

The bill also standardizes when elections officials can mail vote-by-mail ballots before the election to 29 days in advance.

- 2) Timing Changes: When a vacancy occurs in the office of Representative of Congress, State Senator, or Member of the Assembly, the Governor has 14 calendar days in which to issue a proclamation to call a special election to fill the vacancy, unless that vacancy occurs after the close of the nomination period in the final year of the term of office.

This bill seeks to revise the timeframe for conducting special elections to fill vacancies through the following changes:

- a) Instead of conducting the special election on a Tuesday at least 112 days but not more than 126 days following the proclamation, the time in which the election would be conducted is extended by 14 days and takes place on a Tuesday that falls at least 126

days but not more than 140 days following the proclamation. Special general and primary elections could still be consolidated with a regularly scheduled state or local election that occurs within 180 days.

- b) The timeframe for a candidate to circulate nomination papers before a special primary election begins and ends 10 days earlier – permitting circulation to begin 73 days before the primary election instead of the current 63 days, and requiring papers to be filed with the elections official not less than 53 days before the date of the special primary election instead of 43 days.
  - c) The time period to apply for a vote by mail ballot before a special primary election will begin on the 29<sup>th</sup> day before the election instead of the 25<sup>th</sup> day before the election, making the timeline for requesting a vote by mail ballot consistent with regularly scheduled elections.
- 3) Previous Legislation: In 2002, in response to the September 11, 2001 terrorist attacks, the Legislature enacted AB 2760 (Simitian), Chapter 658, Statutes of 2002, which established procedures to expedite special elections to fill vacancies in congressional offices caused by a natural or man-made catastrophe. Subsequent to California's approval of AB 2760, the federal government enacted the Continuity in Representation Act as part of the Legislative Branch Appropriations Act, 2006 (H.R. 2985 of the 109<sup>th</sup> Congress). SB 211 (Simitian), Chapter 306, Statutes of 2010, made numerous changes to provisions of state law that were originally enacted by AB 2760 in order to conform to the federal Continuity in Representation Act.

AB 3070 (Elections & Redistricting Committee), Chapter 108, Statutes of 2008, gave the Governor additional flexibility in scheduling special elections held to fill vacancies in the Legislature or Congress in an attempt to allow a larger number of special elections to be consolidated with regularly scheduled elections.

#### REGISTERED SUPPORT / OPPOSITION:

##### Support

Secretary of State Debra Bowen (Sponsor)  
American Legion, Department of California  
AMVETS-Department of California  
California Association of Clerks and Election Officials (February 23, 2012 version)  
Monterey County Board of Supervisors  
Vietnam Veterans of American-California State Council

##### Opposition

None on file.

Analysis Prepared by: Lori Barber / E. & R. / (916) 319-2094